



PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS

January 29, 2015

Kentucky Horse Racing Commission
4063 Iron Works Parkway, Bldg B
Lexington, KY 40511

**Re: Appeal of the Commission's Investigation of Allegations of
Rules Violations by Steve Asmussen, Scott Blasi, and KDE Equine,
LLC**

PETA was deeply disappointed by the obvious hostility and bias of the report released by the Kentucky Horse Racing Commission in response to the evidence we presented in our request for an investigation into Steve Asmussen, Scott Blasi and KDE Equine LLC, and appeals the decision and requests reconsideration of the evidence and allegations presented to the Commission. The report reflects a Commission committee that has taken a point of view, was apparently not interested in uncovering the truth, and neglected to consider relevant evidence in order to achieve its desired conclusion.

While it was clear soon after our initial complaint was filed, both from the actions and public statements of some members of the Commission, that there apparently was never any intent to conduct an unbiased and thorough investigation, we are nevertheless shocked by the Commission's failure to uphold its responsibilities under the law. Further, both the report and statements made by the Commission to the media mischaracterized our initial complaint as well as the supplemental complaints that were subsequently filed.

The report claims that PETA was uncooperative and refused to turn over evidence the Commission requested. In fact, PETA submitted all evidence that supported our specific allegations of violations in the Commonwealth of Kentucky, despite the Commission's inappropriate statements and actions. Soon after our complaint was filed, for example, PETA's general counsel met by telephone conference with commissioners and pledged full cooperation. Yet just days later, the Commission sent a subpoena to

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1536 16th St. N.W.
Washington, DC 20036
202-483-PETA

Los Angeles

2154 W. Sunset Blvd.
Los Angeles, CA 90026
323-644-PETA

Norfolk

501 Front St.
Norfolk, VA 23510
757-622-PETA

Oakland

554 Grand Ave.
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Affiliates:

- PETA Foundation (U.K.)
- PETA Asia-Pacific
- PETA India
- PETA Germany
- PETA Netherlands

PETA's headquarters requesting all documents and video. This was not only an inappropriate response, since PETA had promised to turn over all relevant evidence requested, but as the Commission no doubt realizes, a subpoena from Kentucky is generally unenforceable in Virginia.

PETA has worked with state and federal law enforcement authorities for more than three decades and in all that time none has ever responded to a request to investigate alleged violations of the law with a subpoena directed to the complainant without any consultation. A simple phone call or letter seeking relevant information is the usual response. The invalid subpoena also went far beyond any appropriate or reasonable inquiry into the allegations of wrongdoing by Asmussen, Blasi and KDE Equine. Considering it took the Commission nearly a year to investigate our complaints, the Commission had ample time to correct its defective and baseless subpoena but chose not to, opting instead to wrongly claim PETA failed to cooperate.

PETA was also deeply concerned soon after we filed our initial complaint to learn that the Commission had given an unredacted copy of the complaint to reporter Greg Hall at the *Louisville Courier-Journal*, and likely to others as well. The unredacted complaint should have been held confidential, as it was part of an investigation, and also because it contained the names of innocent people about whom there were no allegations of violations. PETA released only carefully redacted versions of the complaint and video to media in order to protect individuals who were not accused of wrongdoing.

KHRC executive director John Ward further violated the confidentiality of the Commission's investigation in statements made to Frank Angst of *The Blood-Horse* and published on April 17, 2014¹:

KHRC executive director John Ward said PETA has sent the commission a short video that includes only a few minutes of footage shot in Kentucky. He said the KHRC has requested all of the video compiled by PETA but has yet to receive it from the animal rights group.

"It's a slow process. We are moving at a fast snail's pace dictated by the PETA organization," said Ward, noting that the animal rights organization may have more videos it plans to release. "We have already done all of our due diligence as far as what we have seen. Our scenario now is to find out what other information they have. That's kind of the same way New York is." ...

Ward added that the actions of the PETA member who gathered the video also could be examined because Kentucky racing regulations require license holders to report any potential animal abuse as soon as they become aware of it.

We voiced our concerns about this release of information in an April 23, 2014, letter to Susan Speckert, KHRC General Counsel. We also questioned why, when the Commission was sharing our complaint with reporters and when Commission staff were giving interviews on the investigation, the Commission refused even to respond to PETA's question about whether it had begun its investigation, citing, quite unbelievably, the confidentiality of the investigative process.

¹ http://espn.go.com/horse-racing/story/_/id/10796391/regulators-begin-asmussen-investigation

Based on this, we became gravely concerned that all evidence would either be made public or be shared with individuals outside the Commission. Let us be clear: All evidence relevant to our allegations of violations in the Commonwealth of Kentucky was submitted to the Commission. After the Commission released the unredacted complaint to a reporter and issued a baseless subpoena to PETA, however, and after it commented to media inappropriately, it was apparent that at least some members of the Commission had no intention of conducting a thorough and unbiased investigation. PETA therefore chose not to release the evidence supporting our allegations in New York State. We feared it would be made public and jeopardize the investigation being conducted by the New York Gaming Commission and/or that the Commission would make public statements falsely questioning its veracity. But I repeat, all video in its original form and relevant evidence supporting our allegations in Kentucky were submitted to the Commission.

The Commission's report states that the video submitted to the Commission by PETA was "extensively edited and audio has been overdubbed," and further implies that the video PETA released on its website and YouTube was the video submitted in support of its allegations. None of this is true. None of the video PETA submitted to the Commission was overdubbed, nor did PETA submit the 9 ½ minute video edit released publicly as evidence. The Commission used this misrepresentation of the facts to dismiss the video evidence entirely.

Setting aside the uncalled-for hostile tone of the report, there is no indication that the Commission followed proper procedures: Did the stewards and the Commission vote on the conclusions of the report? Were there any dissenting opinions? If so, why were they not included in the report? There is no explanation by the Commission of how it interprets the regulations at issue, and there is almost no application of facts to the regulations. The bases for the Commission's report lack the analysis that should be expected and demanded of a government agency, and its conclusions are all very general or vague. Few expert opinions were sought outside of the Kentucky racing industry and when one veterinary expert agreed with the assessment of the expert whose statement was submitted by PETA, the Commission invalidated it by seeking the opinion of a veterinarian who was himself engaged in the questionable activity (indiscriminate administration of thyroxine) and used his opinion to discredit PETA's allegation (see below for more on this).

Evidence and expert opinions were selectively used or interpreted to bolster the Commission's incomplete argument. Few witnesses were interviewed; material witnesses were not interviewed; and there appears to have been little to no effort made to corroborate PETA's allegations other than by asking those accused if the allegations were valid. Is anyone really surprised that a jockey known as a "machine rider" denies he has used electro-shock devices? The Commission did not even interview Roman Chapa even though Blasi relates on video that Chapa, who frequently rides for Asmussen, once hid an electro-shock device in his mouth. Subsequent events show the Commission's error in this regard. Chapa was just charged with a felony by the Harris County, Texas, district attorney for the alleged use of a buzzer in a race on Jan. 17, 2015. (Chapa

also rode for Asmussen on the same day.²) While PETA was aware that Chapa had twice been suspended for buzzer use (and one of these was on an Asmussen-trained horse³) we now know, thanks to media coverage, that the jockey has also been penalized for using a nail on a horse, whipping a horse in the face, and has been jailed following an incident in which authorities say he beat a dog with a strap.

Quite astonishingly, the report criticizes the investigator for not reporting alleged violations. It should be quite obvious to the Commission that PETA's complaint *is* the report of the alleged violations, bolstered by organized notes, video, photographs, expert opinions and careful legal analysis.

Response to the Commission's Findings

While the Commission appears in the report to be offended even by PETA's reference to specific regulations that are alleged to have to been violated, claiming this function is the Commission's alone, I nevertheless submit here our response to the Commission's findings on the specific allegations.

Allegation: KDE Equine Maintained Horses in Poor Condition

The Kentucky Thoroughbred Racing regulations place responsibility squarely on the shoulders of trainers, such as Asmussen and Blasi, for the condition and fitness to perform of the horses in their care. *See* 810 KY. ADMIN. REGS. 1:018, Section 15 (requiring a trainer to be responsible for the "care, health, condition and safety of horses in his...care." 810 KY. ADMIN. REGS. 1:008, Sections 3 and 6 (requiring that a trainer "bear primary responsibility for horses he enters as to...physical fitness to perform creditably at the distance entered...proper shoes" etc.) Based on these broad and clearly animal welfare-related regulations, PETA submitted a complaint about the poor conditions of horses to the Kentucky Horse Racing Commission focusing on Nehro, Teardrop and horses who "bled" after workouts.

Nehro

PETA supplied evidence that Asmussen and Blasi forced Nehro to continue training—making him run timed workouts on April 23 and April 30, 2013—even *after* PETA's investigator had heard Blasi acknowledge Nehro's poor physical condition. Inexplicably, the report states that PETA supplied no evidence to support our claim that Nehro was in pain. Yet KDE Equine's trainer, farrier and veterinarian all acknowledged on the video evidence submitted by PETA that

² http://espn.go.com/horse-racing/story/_/id/12243488/why-was-roman-chapa-riding

³ http://www.nytimes.com/2014/03/28/sports/new-light-on-seamy-role-of-buzzers-in-horse-racing.html?_r=0

Nehro's feet were in very poor condition. "They're horrible," Blasi stated. The farrier stated that one of Nehro's feet was just a "little bitty nub." The farrier also stated that when one part of the foot was touched "that hurts him." When questioned by the Commission, Blasi and the farrier apparently denied the veracity of what they themselves had stated, and the report indicates that the Commission attempts, inappropriately, to show these statements were merely discussions about normal hoof conditions.

Additionally, PETA supplied an opinion from Dr. Holly Cheever, who is a world-renowned equine veterinarian, a graduate of Harvard University and the College of Veterinary Medicine at Cornell, where she graduated first in her class, and has been primary equine advisor to two states and 18 municipalities, including New York. Dr. Cheever stated that in her view Nehro was experiencing "severe pain" and suffering and "should have been given strict pasture rest for months—possibly for a year—to permit the healing of his multiple lamenesses" rather than being forced to run in his condition. The Commission determined that Dr. Cheever's opinions did not have a "scientific basis" and dismissed her expertise based on previous statements in another context that allegedly show her bias against horseracing. Yet the report reeks of bias on the part of the Commission and its own experts.

Significantly, the report did not adequately address whether it was in the best interest of Nehro's health to continue training and/or racing. When Dr. Reed was asked if it's advisable to give the horse time off to let the hoof grow instead of using glue-ons, Dr. Reed stated: "**Yeah, it'd [sic] be hard-pressed to say that no, that wouldn't be better** [emphasis added]. But when you're talking about a foot that grows minutely, it takes a year to grow a whole new foot out. And a lot of time, you grow out the same shelly foot that you had before, and unfortunately, you may be back with the same problem that you had before, ... [a]nd the economics of it, you want the horse to race." Dr. Reed admits it was not in the interest of a horse's well-being to continue to run him, but further acknowledges that in these cases the economics of racing apparently dictate veterinary decisions.

Even as the report dismisses obvious evidence with statements from Blasi and a farrier attesting to the poor condition of Nehro's feet, it inexplicably suggests that the investigator chose not to videotape Nehro in motion as that might have shown that Nehro was sound. Not only is this false, I would remind the Commission that the investigator was forced to work 10 – 12 hours a day, seven days a week (in violation of labor laws, without overtime compensation) and was often too busy caring for horses to capture all the evidence the Commission would have liked. The Commission further questions why the investigator did not record video of Nehro on the morning he died. At that time, the investigator was hot-walking a horse who had just finished a workout. While she was in the vicinity, she could not leave the horse she was responsible for without endangering his health in order to capture video. Given that the Commission dismissed the valid evidence we did supply, it's not obvious that additional video would have made a difference.

Teardrop

The Commission's finding that our evidence did not support our allegation that Teardrop was maintained in an unfit condition is wholly untenable. This could only be the case if the Commission did not fully examine the evidence about this filly, who was just two years old at the time of our investigation. Teardrop's profile in our investigation follows the period leading up to her June 22, 2013, Debutante Stakes race at Churchill Downs. Teardrop was seemingly battling a number of injuries and undergoing aggressive and problematic treatments, including chemical blistering⁴, leading up to the Debutante. PETA submitted video taken on June 18, following weeks of drug injections, of Blasi stating that Teardrop was lame. Video taken on June 20 of Teardrop walking in the stable area after a workout shows that she is not putting her full weight on her right front leg. Yet just two days later she was run in the Debutante Stakes.

The result was predictable. Teardrop was the morning line favorite at 2:1 and went off as the second favorite in an 11-horse field and ended up a distant 7th, about 27 lengths behind. She got cut up during the race and had other problems coming out of the race.

The day after this June 22 Debutante Stakes race, our investigator saw radiographs being taken of Teardrop's legs, indicating concern for injury. The filly was off until November 30, when she finished 3rd back in Churchill, and had one more race on January 10 at the Fair Grounds, where she finished third. She was not raced between January 10 and the release of our investigation in March.

The records we have of the drugs Teardrop received, documented below, begin two months before the Debutante Stakes. They don't include thyroxine, because this was before the indiscriminate, unrecorded use of the thyroid medication was on our radar; there may have been other drugs/treatments that weren't witnessed and/or recorded, but her drug profile overall is one of the more complete ones from the case.

Teardrop's Medication Chart

April 18: 3 Dan [3 cc Dantrolene]

April 20: 1/2 Ace [1/2 cc Acepromazine]

April 21: 1/2 Ace

April 24: 3 Dan

April 27: 1/2 Ace

April 30: 3 Dan

⁴ The issues with chemical blistering were outlined in our cruelty to animals complaint, which was filed with the Louisville Metro Animal Services; the Kentucky Horse Racing Commission received a copy of this complaint.

May 4: 1/2 Ace, 3 Dan

May 5: 3 Dan

May 6: 3 Dan

May 7: 3 cc Lx, 2 Dan [LX = Lasix]

May 9: 1/2 Ace

May 10: 1/2 Ace, 3 Dan

May 11: 1/2 Ace, 3 Dan

May 12: 3 Dan

May 12: The second paper was labeled "EQUINE MEDICINE & SURGERY," "Bossier City, Louisiana 71111," "(318) 746-7866," and "FAX (318) 746-7899," and included the notations: "DATE 5-12-2013" and "DR. X." The field for "TRAINER" was not filled in. The second paper read as follows:

STALL	HORSE	REMARKS
29	Duval	10cc Levamis[...]
33	Tear Drop	10cc Levamis[...]
18	City Cool	2g Bute
15	Z Dager	2g Bute
14	Lemon Drop Dream	2g Bute
37/30	Hard Tap	2g Bute

I do not recall what letters followed "Levamis" on the above document, but I suspect that levamisole was what was listed.

(Video 2013-05-12_List of horses with veterinarian's remarks)

May 13: 3 cc Lx

May 16: 1/2 Ace, 3 Dan

May 17: 2 Dan

May 19: 2 Dan

May 20: 3 cc Lx, 3 Dan

May 27: 1 Ace, 2 Dan

May 28: 1/2 Ace, 2 Dan

May 29: 2 Ace, 3 Dan

May 30: 2 Ace

May 31: 2 Ace, 3 Dan

June 1: 2 Ace, 3 Dan

June 2: 1 Ace, 3ccLx, 3 Dan

June 3: 2 Ace, 3 Dan

June 4: 2 1/2 Ace, 3 Dan

June 5: 2 1/2 Ace, 3 Dan

June 6: 2 1/2 Ace

June 7: 3 Ace, 3 Dan

June 8: 2 Ace, 3 Dan

June 9: 3ccLx, 3 Dan

June 9: While I was in the office, I saw a sheet of paper labeled "EQUINE MEDICINE & SURGERY," "Bossier City, Louisiana 71111," "(318) 746-7866," and "FAX (318) 746- 7899" that included the following notations: "DATE 6-9-2013," "DR. X," and "TRAINER Asmussen." The paper read as follows:

STALL	HORSE	REMARKS
24	Brazen Persuasion	3ccLx OK
26	Tear Drop	3ccLx OK
12	Southern Blessing	3ccLx OK
11	Saber Cat	Lx OK
2	Masaru	3ccLx OK

(Video 2013-06-09 _Vet comments on various horses)

June 11: 3 Ace, 3 Dan

June 12: 3 Ace, 3 Dan

June 13: 2 Ace

June 14: 3 Ace, 3 Dan

June 15: 2 Ace, 3 Dan

June 16: 3ccLx, 3 Dan

June 16: While I was in the office, I saw a sheet of paper labeled “EQUINE MEDICINE & SURGERY,” “Bossier City, Louisiana 71111,” “(318) 746-7866,” and “FAX (318) 746- 7899” that included the following notations: “DATE 6-16-2013,” “DR. X,” and “TRAINER Asmussen.” The top portion of the paper read as follows:

STALL	HORSE	REMARKS
...		
26	Tear Drop	3ccLx OK

The report points out that “[m]ultiple KHRC veterinarians independently observed Teardrop on race day—from the pre-race exam to monitoring her during the post parade, during the race, returning to be unsaddled, and cooling out in the test barn. At no time was she observed to be lame, injured or otherwise unsound.” This of course is what happens with every horse who goes lame the day after a race; it is what happens with every horse who suffers catastrophic injury on the track. A pre-race exam is by no means conclusive evidence that Teardrop was sound. This is another indication that the Commission apparently chose to ignore the requirements in its own regulations that a horse’s health is safeguarded at all times, and instead merely focused on whether a horse is able to compete in a race without obvious ill effects. Indeed, all the evidence submitted, including a statement by Blasi on video that Teardrop was lame two days before she ran, and the steady regimen of medication, indicate soreness and injury in the horse that the Commission inexplicably believes was sound.

Allegation: A non-veterinarian administered a prescription drug in violation of KHRC regulations

810 KY. ADMIN. REGS. 1:018 provides:

Section 3. Treatment Restrictions. (1) Except as provided in Section 4 of this administrative regulation, a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall not administer a prescription or controlled drug, medication, or other substance to a horse at a location under the jurisdiction of the commission. ...

810 KY. ADMIN. REGS. 1:018 Section 4, which covers “Certain Permitted Substances,” provides:

[l]iniments, antiseptics, antibiotics, ointments, leg paints, washes, and other products commonly used in the daily care of horses may be administered by a person, other than a licensed veterinarian if:

- (1) The treatment does not include any drug, medication, or substance otherwise prohibited by this administrative regulation;
- (2) The treatment is not injected; and
- (3) The person is acting under the direction of a licensed trainer or veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission

PETA's investigator witnessed one of Asmussen's foremen—who is not a veterinarian—administer Dantrolene, a prescription drug, to a horse called Dillinger.

The report indicates that the Commission found that there was nothing illegal about this and stated that Dantrolene is “commonly used to prevent... ‘tying up’” and that it was not injected. Therefore, it appears that the Commission found that Dantrolene falls under the exception for drugs “commonly used in the daily care of horses.” This finding is wholly untenable. Dantrolene is a powerful muscle relaxant and is listed as a regulated therapeutic substance by the Commission itself. It should by no means be considered similar to liniment or antiseptic. The medication must be prescribed for a specific horse by a veterinarian. The Commission apparently did not even seek veterinary records to confirm that Dillinger had actually been prescribed this medication. Rather, the Commission's view is that since Dantrolene is “commonly used” there is no obligation to ensure that this controlled medication be administered by a veterinarian as required.

Allegation: A number of horses “bled” while under the care of Asmussen and Blasi and, despite this fact, were forced to continue to train and race, some within mere days after having bled.

The Commission's basis for its conclusion that there was no rule violation is unsupported in the report. The Commission fails to provide any analysis of the applicable regulations, or otherwise reconcile its conclusions with the regulations. It appears that the Commission is of the opinion that a veterinarian has the discretion to allow a horse to race despite the fact that she has bled within the prohibited time period. This section of the report is so poorly and vaguely written that it is impossible to track the Commission's investigation, other than to surmise that it has apparently chosen to rely on sources such as public databases rather than veterinary and training records for the horses at issue, which of course would be available to the Commission for review.

The Commission also states that since all the horses named in our complaint raced at Churchill Downs in the 2013 meet they must have been fine because no irregularities are noted. Since the

systems in place in racing today do not prevent horses breaking down on a daily basis it is not clear why this system is deemed more important than the clear evidence we provided or, of equal importance, the prohibition set forth in the Commission's own regulations. Furthermore, though it should be obvious, bleeding is evidence that the horse isn't fine after racing.

Additionally, there are entries in the veterinary charts we provided that three horses bled and then were raced within the prohibited time period, yet the commission utterly failed even to address the third horse and should explain in detail which horses they did consider and why they didn't address the third.

It should be noted that the Commission appears take the position that the law merely requires the trainers to maintain horses in a condition that makes them fit to race. In fact, in accord with the applicable statute⁵, the regulations make the trainers responsible for "The proper ... custody, care, health, condition, and safety of horses in [their] care."⁶ The fact that a horse completes a race without injury or illness is not necessarily evidence that the standard set forth in the regulations has been met.

Allegation: Possible misuse of thyroid medication in Kentucky based on widespread distribution in New York

In New York, PETA documented evidence that between 15 and 20 cc of Thyrozine Powder was thrown in the feed of many, if not all, of the horses in Asmussen's barns at Saratoga Race Course on a daily basis, with the possible exception of horses who were scheduled to race on that same day and perhaps the day before. The evidence also indicates that thyroxine was administered by non-veterinarians, without proper veterinary diagnoses and without proper ongoing supervision. Given that administering thyroid medicine in this manner seemed to be KDE Equine's standard practice in New York, PETA submitted a later supplemental complaint to the Commission and asked for an investigation into possible violations involving thyroid medications in Kentucky.⁷

⁵ See KRS § 230.225 (5)(a) ([T]he racing commission shall be responsible for ... [d]eveloping and implementing programs designed to ensure the safety and well-being of horses, jockeys, and drivers).

⁶ 810 KY. ADMIN. REGS. 1:018 § 15(5)(c). See also 810 KY. ADMIN. REGS. 1:008 §§ 3 and 6.

⁷ Administering thyroid medications in KY in the same or similar manner as in NY would likely violate several of KHRC's rules:

810 KY. ADMIN. REGS. 1:018, Section 2(2) provides, in relevant part: "[W]hen participating in a race, a horse shall not carry in its body any drug, medication, substance, or metabolic derivative, that: ... [c]ould stimulate...or affect the circulatory, respiratory, cardiovascular, musculoskeletal, or central nervous system of a horse."

810 KY. ADMIN. REGS. 1:018, Section 2(4) provides, in relevant part: "A substance shall not be present in a horse in excess of a concentration at which the substance could occur naturally if it affects the performance of a horse."

810 KY. ADMIN. REGS. 1:018, Section 20, provides in relevant part:

(1) A drug, medication, or substance shall not be possessed or used by a licensee, or his designee or agent, to a horse within a nonpublic area at a location under the jurisdiction of the commission:

(a) The use of which may endanger the health and welfare of the horse; or

The Commission found that “[t]he administration of thyroid hormone does not constitute a violation of Kentucky regulations. **If the thyroid hormone is prescribed for a specific patient,** [emphasis added] and the dispensed medication [is] properly labeled, its use is in compliance with KHRC regulations.” The commission then summarily determined that no violation could be documented.

The Commission appears to ignore the well-understood and documented true purpose of the use of this drug as a performance enhancer and, further, the Commission offers no evidence that thyroid hormone was prescribed for every horse. Indeed, it appears that Asmussen’s standard operating procedure was to indiscriminately administer thyroxine to many, likely all, of his horses. Our evidence shows that the medication was dispensed by general workers, and that the apparent standard practice was simply to scoop the hormone from a canister and put it in the feed, as if it were a vitamin supplement and not a powerful prescription medication. Asmussen’s own statements in the report confirm this and it’s also confirmed by Blasi in audio recorded in New York (which was submitted to the Commission) and Asmussen’s own statements on HBO’s *Real Sports with Bryant Gumbel* about the death of Finesse soon after our investigation was released. If the Commission is claiming that Asmussen had individual prescriptions for thyroxine for every horse, did the Commission investigate why this would be the case since it is statistically improbable, if not impossible, that each and every horse in Asmussen’s barn suffers from a thyroid condition? Further, did the Commission even obtain copies of these veterinary and care records from Asmussen, the horse’s owners, or Asmussen’s veterinarians? It would be impossible to make a determination if he was in compliance without an investigation of these questions and review of the records. If the Commission failed on these points, there are serious procedural problems with its investigation.

From the “Documents Reviewed” section of the report, it appears that the Commission obtained records from veterinarians concerning a number of horses. Were these records examined for the use of thyroid hormone prescriptions? If not, why not? Were the veterinarians questioned about this?

If Asmussen actually obtained a prescription for every horse, then there are apparent problems with veterinarians recklessly prescribing the same medication, at the same dosage, to all the horses, apparently with no blood tests to determine the effect of the medication on each horse. There are important questions the Commission apparently did not raise: Were all the horses tested for hypothyroidism before the prescription? Were they tested and re-tested after they were

(b) The use of which may endanger the safety of the rider. ...

810 KY. ADMIN. REGS. 1:018, Section 3(1) provides: “Except as provided in Section 4 of this administrative regulation, a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall not administer a prescription or controlled drug, medication, or other substance to a horse at a location under the jurisdiction of the commission.”

put on thyroxine? Are there records of all these tests? Were there individual dosage differences given to all of the horses on thyroxine?

The reckless administration of thyroxine is known to have serious physical consequences and risks, as documented in the expert statement we included from Dr. Dorothee Bienzle, professor of veterinary pathology at the University of Guelph and a renowned expert on the misuse of drugs and other substances in the horse racing industry. Yet Dr. Bienzle's statement seems to be disregarded by the Commission in favor of anecdotal accounts, uninformed opinions and gross generalizations by Dr. Reed.

Shockingly, the Commission did not even consider the industry context in which Asmussen was still administering thyroxine, i.e., the several deaths in Bob Baffert's barn in California that had possible links to thyroxine. The California Horse Racing Board (CHRB), in response to these concerns, and after the deaths in Baffert's barn,⁸ issued new rules on 11/21/13 to curb the "indiscriminate use of thyroxine:"

The California Horse Racing Board is concerned by the apparently indiscriminate use of thyroxine in horses racing and training at California tracks. Any thyroxine within CHRB enclosures must be prescribed by a veterinarian licensed by the CHRB. Furthermore, the thyroxine must be prescribed for a specific horse for a specific condition, and it must be properly labeled in compliance with federal and state laws and CHRB regulations.⁹

Knowing that there was controversy and serious potential links between thyroxine and fatalities, and new rules by the CHRB and from such organizations as the Federation Equestre International¹⁰, Asmussen defiantly continued to administer thyroxine in the same indiscriminate manner.

Even after the release of our investigation, which addressed indiscriminate use of thyroxine, Asmussen admitted in an interview for television that he continued administering thyroxine in the same way at least until Finesse collapsed with heart failure after the finish line at Oaklawn on 3/21/2014. (PETA included the evidence surrounding the horse's death in a supplemental complaint to the Commission.) Finesse had raced in Kentucky at Churchill for Asmussen on 5/19 and 6/16, during our investigation, and was in fact one of our investigator's favorite horses. As the excerpt below shows, Asmussen admitted on camera (after first denying that the filly was on and medication except Lasix) that Finesse, like his other horses, was on thyroxine. Yet he still denied understanding—as apparently does the Commission—that there is a possible connection between a drug that speeds up the heart rate and Finesse's heart attack. This is the only explanation unless Asmussen was disregarding the potentially deadly side effects, risking the

⁸ <http://www.nytimes.com/2013/11/23/sports/despite-the-evidence-trainers-deny-a-doping-problem.html>

⁹ http://www.chrb.ca.gov/veterinary_reports/thyroxine_advisory.pdf

¹⁰ <http://horsetalk.co.nz/2013/10/03/medications-added-fei-prohibited-list/%20-%20axzz3PbcbM100>

lives and long-term health of his horses. Yet the Commission determined that this person takes good care of his horses and is in compliance with his duty to ensure the health and safety of his horses as required by the regulations.

**Excerpt from HBO's *Real Sports with Bryant Gumbel*
May 20, 2014**

[Bernard] Goldberg brought up a filly named Finesse, who died of an apparent heart attack at Oaklawn Park after finishing second in a March 21 race.

“Was that horse on drugs?” Goldberg asked.

“Lasix. That’s it,” Blasi told him.

Goldberg said Arkansas authorities kept Finesse’s autopsy secret but that a track veterinarian told “Real Sports” the filly was “on a cocktail of drugs: Lasix, clenbuterol and Thyroxine – the same drug found in the seven horses that died under trainer Bob Baffert.”

Goldberg asked Asmussen what drugs were given to Finesse.

“She did race on Lasix,” the trainer said.

“Just Lasix?” asked Goldberg.

“She was treated with, as you mentioned, legal limits of therapeutic medications. Clenbuterol. It’s a bronchodilator. We do feed Thyroxine.”

Goldberg pointed out that Thyroxine “speeds up metabolism and heart rate” and tried to connect the thyroid drug to Finesse’s heart attack.

“Feeding Thyro L (a brand of Thyroxine) is not to increase the heart rate,” said Asmussen.

“But it does,” Goldberg interjected.

“One of the side effects of it,” said Asmussen.

Goldberg then said of Asmussen. “He says he’s done nothing wrong, that PETA’s allegations are untrue and that the drugs given to Finesse were not only safe but legal in the industry and widely used. But others say that is precisely the problem: evidence of a pervasive drug culture that is dangerous to both horses and jockeys.”¹¹

¹¹ <http://www.paulickreport.com/news/ray-s-paddock/real-sports-segment-a-disturbing-look-at-racings-drug-culture/>

Further, the Commission chose to dismiss an opinion from one of its own experts. The report states: “According to Dr. Messer, the supplementation of thyroid hormone in clinically normal horses, is not a justifiable practice and poses some degree of risk to the horse. It is only ‘unethical’ if true harm can be proven i.e. decreasing bone density.” The Commission appears to have hung its hat only on the questionable opinion regarding the ethics of the practice, yet the question for the Commission is not whether Asmussen’s use of thyroxine is ethical, but whether it is indiscriminate and unjustified from a medical standpoint and thus in violation of the regulations.

It is inexplicable that the Commission disregards Dr. Messer’s statement in favor of the opinion of Dr. Reed who makes the absurd and insupportable claim that all Thoroughbred race horses are hypothyroid. If thyroid hormone poses a “degree of risk” and “is not a justifiable practice” in clinically normal horses, why didn’t the Commission investigate whether or not Asmussen was administering this drug to clinically normal horses? Where are the records, the tests, and the follow up tests after administration to monitor hormone levels?

Allegation: Possible use of electrical buzzers

The Commission’s investigation of PETA’s supplemental complaint on the use of electro-shock devices consisted primarily of interviews with D. Wayne Lukas—who is himself a member of the Commission—Gary Stevens, Calvin Borel, and Ricardo Santana. These allegations warranted interviewing many more people at various positions at the track and backside, including jockeys, retired jockeys, exercise riders, and trainers, about what they know about buzzers and methods of concealment. Why were none of the people who work in the saddling and dressing area of the barn questioned? It is not adequate simply to question individuals who are likely never going to incriminate themselves. Viewing previous races of Borel’s and Santana’s on video is not going to reveal much unless the jockeys were extremely sloppy in concealing the device, as apparently was Roman Chapa, who allegedly had the buzzer in clear view of a photographer from the infield recently. Furthermore there is no indication that the Commission asked Asmussen why he continues to employ Chapa, who is a repeat offender. Roman Chapa, as mentioned above, was not questioned; indeed, the report doesn’t mention Chapa at all.

As for the interview with Dr. Reed, many news articles and documented violations indicate that there is rampant use of buzzers in training and races; any proper investigation would at least turn up more than Dr. Reed’s comment that he hasn’t seen one in Kentucky in 20 years.

Response to the Commission’s Attempts to Discredit PETA

Even while ignoring experts who didn’t give the answers the Commission wanted and neglecting to interview material witnesses, the report seeks to discredit PETA and the investigator. In

addition to the absurd accusations about “overdubbing” and non-cooperation, there are further examples:

- The Commission claims that one video clip “shows Blasi sitting at a desk at a track office with his back to Rosen. He appears to be talking to someone on the telephone—not responding to Rosen” and (3) in the YouTube video “dealing with undocumented workers, Rosen asks Blasi if he obtains social security numbers for employees—Blasi audibly says, ‘nah’ but the subtitles read ‘yeah’.” With regard to the first statement, the person to whom Blasi directed his comments (whether the PETA investigator or someone else) is irrelevant to the credibility of that evidence. With regard to the second statement, while Blasi’s response is difficult to hear, the context of the conversation *strongly* indicates that Blasi’s response is “yeah,” and the investigator, who was present for the conversation obviously, confirms that Blasi said “yeah.”
- In one video clip, Blasi is speaking to PETA’s investigator about Nehro’s feet. Because he had a phone in his hand, the report falsely claims that Blasi was not responding to the investigator. However, the investigator’s log notes state: “While I was in the office, I asked Scott if Nehro’s feet had always been ‘this bad,’ referring to the poor condition of Nehro’s feet and hooves. He responded, ‘Yes. It might be one of my best training jobs ever. They’re horrible.’ I said, ‘It’s amazing that he’s done what he’s done,’ meaning that it was surprising that Nehro had been able to compete with these problems, to which Scott replied, ‘It really is.’”
- The Commission asserts that PETA presented “conversations out of context and contrary to the substance of the conversation as a whole.” As support for this assertion the Report says that at a “dinner party” the investigator recorded Gary Stevens and D. Wayne Lukas telling stories about buzzers and PETA presents it as if it had occurred recently. This is untrue. PETA’s supplemental complaint to the Commission expressly states “the dates and locations of the incidents are unknown.” This clearly shows that PETA was not trying to be misleading.
- The Commission asserts that in video clip #22 Blasi “clearly states that he will not run [Teardrop] if she’s not right, but PETA did not include that statement in its allegations.” This is extremely puzzling, as *we gave the Commission the video*; clearly we weren’t trying to hide this. More to the point, while Blasi says he will not run Teardrop if she’s not “right,” he did in fact run her just two days after she was seen to be lame. See above discussion.

Furthermore, Blasi was apparently not reluctant to run lame horses. As the Commission did view PETA’s YouTube video, they will recall that in New York Blasi was recorded saying that he would try to conceal injuries in order to deceive track veterinarians so that the horse would not be scratched in the pre-race exam. This is from the investigator’s log notes, 8/12/13:

I finished working at approximately 11:15 a.m., at which time I left for a break. I returned at 1:15 p.m., as I was scheduled to help with Insighting, who was entered in race 4. I

gathered several pieces of equipment and followed Insighting, a groom, Scott and X to the paddock. While I was driving with Scott to the paddock, I asked him what had happened with Charlie's Quest earlier this morning. I asked, "What the hell happened with Charlie's Quest?" Scott said, "They're saying he's too sore to run. I don't know. You ought to see these limping mother fuckers I see this son [of] a bitch out here jogging every day. It's fucking horrible. We actually helped the fucking horse out and got his feet shod." I asked, "Was he sound when you claimed him?" Scott said, "Nope." Scott was saying that since claiming Charlie's Quest, he put new shoes on the horse's feet. I understood Scott to be referring to neighboring trainers—not Rudy Rodriguez—when he said that there are other trainers jogging lame horses. Scott then said, in reference to Charlie's Quest, "And you know he was in fucking worse shape than he's in with us." Scott added, "But you know what? I'll fuck 'em next time. I'll put a gel cast on that motherfucker, and I'll make it look as good as it fucking can. I ain't got no problem scratching the horse. Horse is a little fucking off." I understood Scott to be saying that he'll put a gel cast on Charlie's Quest next time he races so that Charlie's Quest will appear sound and will be allowed to race. (**Videos 2013-08-12_Scott talks about Charlie's Quest being scratched 1 and 2013-08-12_Scott talks about Charlie's Quest being scratched 2**)

Misleading Statements in the Report

Report: "The investigative report and materials were sent to the Stewards to review and make an independent determination" of any rules violations.

Fact: The Stewards are not "independent"; they are employed by the Commission. See e.g. 810 Ky. Admin. Regs. 1:004(f) ("A steward shall not serve until approved by the commission."); 810 Ky. Admin. Regs. 1:004(3) ("Stewards shall be responsible only to the commission and may be replaced by the commission at any time for failure to perform their duties to the satisfaction of the commission.")

Report: Louisville Metro Animal Services told KHRC "that it did not intend to open an investigation into the PETA letter."

Fact: PETA was told by Louisville Metro Animal Services that they were not opening an investigation because the Department of Agriculture has jurisdiction over cruelty to horses, not because they didn't think there was a valid claim, as the report implies.

Report: PETA claims that "'Asmussen and Blasi maintained horses in their care in poor physical condition' or subjected any horse to 'cruel or injurious mistreatment' *abuse* or neglect." The term "abuse" is used several times in the report.

Fact: PETA did not claim "abuse" in any correspondence to the Commission. Dr. Cheever wrote in her expert report that Nehro "suffered abuse at the hands of his owner, trainer, and riders" and PETA included that statement in the complaint, but that was not said by PETA. Furthermore, determining whether there is "abuse" in the context of cruelty-to-animals is outside of the Commission's jurisdiction.

Given all this, PETA is deeply concerned for the horses in Asmussen's care, and as well, the horses under the Commission's jurisdiction in the Commonwealth of Kentucky.

Very truly yours,

A handwritten signature in black ink that reads "Kathy Guillermo". The signature is written in a cursive, flowing style.

Kathy Guillermo
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